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Dear Mr. Tierney, Ms. Grebasch, Ms. Smith Taylor, Chairman Svinicki, and Director Coleman:

For over 40 years, groundwater has continued to be contaminated as a result of historical uranium milling operations from the Homestake Mining Company facility (purchased by Barrick Gold Corporation in 2001) north of Milan, New Mexico. The Homestake facility has undergone a long and complex history with both State and Federal agencies. Uranium milling operations at the Homestake facility began in 1958 under a license issued by the Atomic Energy Commission. From 1974 to 1986, the Homestake site was regulated by the State of New Mexico in accordance with its status as an Agreement State for uranium milling as authorized by the Nuclear Regulatory Commission (NRC). In 1975, the State of New Mexico requested that the Environmental Protection Agency (EPA) study the impacts of uranium milling activities near Homestake. In 1976, Homestake began cleaning up contaminated groundwater in the alluvial and upper Chinle aquifers in the vicinity of Homestake, under the terms of a Groundwater Protection Plan approved by the New Mexico Environment Department (NMED). In 1983, the HMC Site was placed on EPA's National Priority List (NPL). In 1986, the State of New Mexico relinquished its regulatory authority as an NRC Agreement State for uranium milling back to the NRC and an NRC license was issued to Homestake. The NRC continues to require Homestake

to perform groundwater clean-up under a 1989 Corrective Action Program (CAP) as well as Appendix A of 10 CFR Part 40 for Title II Uranium Mill Tailings Radiation Control Act (UMTRCA) sites.

Ed Kennedy, a former Homestake Mining Company official, told residents that the contamination was only present in the shallowest aquifer and would never reach deeper aquifers. In 1983, Homestake officials told residents that Homestake would pay for their water. This requirement was part of a Department of Justice (DOJ) Agreement and Stipulation entitled, *United States of America v. Homestake Mining Company*, which was filed in the United States District Court for the District of New Mexico on November 29, 1983 (Civil Action No. 83-1023HB). The Agreement and Stipulation required Homestake to pay the Village of Milan monthly water charges for household usage below 7500 gallons per month for each residence in the subdivisions until ten years after the residence was provided water. The residents of Murray Acres and Broadview Acres subdivisions also agreed to accept small cash payments. At that time, many of the residents believed that Homestake would have the groundwater contamination fully cleaned within ten years. This is consistent with Homestake's 1980 report entitled, *Review of Broadview Acres Injection System*, which concludes it will take several years to complete groundwater clean-up at Broadview acres with injection rates of 90 gpm and 6 months to a year if injection rates were 300 gpm. Many of the residents had ties to former uranium operations and accepted the company's assurances. The water piped from the Village of Milan municipal water supply allowed Homestake to perform groundwater clean-up without interference from the pumping of the residents' groundwater wells. This would allow Homestake to complete groundwater clean-up and then install the final radon barriers and erosion protection covers on top of the 21 million tons of uranium mill tailings and wastes that cover over 200 acres almost 100 feet high and located less than a mile from many homes.

While the Agreement and Stipulation addressed the supply of water for household use, it did not compensate for contaminated water used for agricultural purposes. As stated in a 1983 memorandum entitled, *Memorandum of the United States in Response to Comments (Protest) and in Support of Entry of Agreement and Stipulation*, the EPA stated that the "aquifer water has not been shown to be dangerous for agricultural and irrigation purposes." However, EPA and DOJ did not recognize that the use of contaminated water above the background concentrations approved by the NRC was not allowed without an NRC license. Contaminated water above the background values established by the NRC is considered 11e.(2) byproduct material as defined in the Atomic Energy Act, as amended. In fact, even Homestake is not authorized to discharge contaminated water for irrigation or livestock purposes. The discharge of contaminated water from Homestake is also prohibited by NMED.

Ten years elapsed and instead of news that the aquifers were cleaned, the site, now regulated by NRC, in coordination with EPA, began to show increased contamination and toxic pollutants in the three deeper aquifers, upon which residents had relied for farming and livestock. The NMED, in conjunction with NRC and EPA gave the company permission to dilute the contamination rather than clean it, and when the company could not even make that practice comply with standards, simply relaxed the standards for contamination at the site. However, the cleanup plan was so bad that even those relaxed standards have not been met.

This means residents in the surrounding community are limited in the amount of water they can

use because their wells are still too contaminated. They must pay much higher rates for domestic water than other users but cannot vote for the elected officials who set those rates.

NMED and the NRC allowed Homestake-Barrick Gold to use contaminated water to water land in the community. This resulted in more contaminated land. Then regulators forced the company to stop this practice and the result was dust blowing into our yards and onto roads, with prairie dogs and other nuisances in abundance. The smell from the evaporation ponds in summertime can be noxious and overpowering. A once-thriving and growing farming community became a much less desirable place to live. Property values started falling.

In addition, the Department of Energy (DOE) recently announced during a public meeting that the San Andres-Glorieta aquifer, which was the only clean aquifer near the subdivisions and the regional drinking water aquifer, is now seeing increased concentrations at the subdivisions near Homestake due to past uranium milling operations at the Bluewater site. The Bluewater site is located approximately 2.5 miles northwest of Homestake and was transferred to the DOE in perpetuity for long-term monitoring.

We organized, wrote letters, and hired experts.

Over thirty years later, we are still working to regain what was once a vibrant rural community. Every time someone dies or decides to move away, Homestake-Barrick Gold buys the property at a greatly reduced cost, which they can do because their Superfund site contamination has devalued property many of us worked lifetimes to build. These devalued sales further destroy our property value. These facts added to the downturn in the local economy means most folks are now trapped living next to a site our own health studies show is not safe.

In addition, even though the EPA's human health and risk assessment study showed that those living closest to the uranium mill tailings piles are at 18 times greater risk than the EPA's own standard for lifetime cancer risks due to ambient radon, both EPA and NRC physicists tell residents we are perfectly safe. Our informal community health study shows a ring of deaths in families living closest to the tailings pile and several other notable health issues including cancers and thyroid disease.

Adding insult to injury, the EPA now acknowledges that instead of setting background levels for several of the deeper aquifers from upstream wells, the wells used were entirely inappropriate because they were actually located downstream from the contamination. A new EPA study is underway.

Homestake-Barrick Gold asks for things like changing the radon background monitoring stations to somewhere that is more contaminated. If old patterns continue, that is exactly what the NRC will allow.

Our community has lived with this situation for over 40 years. Homestake said the contamination would be cleaned in ten years. So, a solution is 30 years overdue.

Now the NRC, EPA and NMED have restricted access to even our contaminated water—which makes sense—but is a “taking” of property rights and something we cannot allow.

The solution is simple. Homestake-Barrick Gold should:

1. **Pay us back for the water we have been forced to pay for over the years** because of the ineptitude associated with this failed cleanup.
2. **Drill and operate a municipal well for the community from an unpolluted source** so that our domestic water is free and good to drink just as it was when most of us moved to the area.
3. **Drill new wells for those property owners who want them and have legal water rights** in a clean aquifer to make us whole again in our water property rights.
4. **Buy out those families who want to leave**—giving them the value for their property they would have had without this environmental catastrophe.

Clean water crucial to New Mexico and groundwater clean-up will be critical for future generations. This community, which has endured so much injustice for so long, needs to be made whole again.

Please explain any and all mechanisms your office or agency can and/or will use to make these solutions a reality soon. If you cannot make these solutions possible, please explain why not and give us clear instructions for making these proposals a reality.

Sincerely,
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